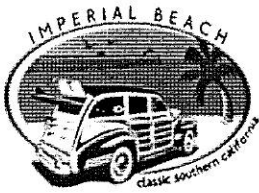


LAST MINUTE AGENDA INFORMATION II

08/19/09 Regular Meeting

(Agenda Related Writings/Documents provided to a majority of the City Council after distribution of the Agenda Packet for the August 19, 2009 Regular meeting.)

<u>ITEM NO.</u>	<u>DESCRIPTION</u>
3.1	<p>ORDINANCE NO. 2009-1090 – AN INTERIM ORDINANCE ENACTING AN URGENCY MEASURE PROHIBITING COOPERATIVE, COLLECTIVE, OR OTHER FORMS OF MARIJUANA DISPENSARIES DURING A SPECIAL STUDY PERIOD FOR 45 DAYS. (0610-95)</p> <p>a. Correction to Staff Report, pg. 1</p>



AGENDA ITEM NO. 3.1
RECEIVED

2009 AUG 13 P 3: 24

CITY MANAGER'S OFFICE
CITY CLERK OFFICE

STAFF REPORT
CITY OF IMPERIAL BEACH

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: GARY BROWN, CITY MANAGER

MEETING DATE: August 19, 2009

ORIGINATING DEPT.: CITY ATTORNEY

**SUBJECT: AN INTERIM ORDINANCE ENACTING AN URGENCY
MEASURE PROHIBITING COOPERATIVE, COLLECTIVE,
OR OTHER FORMS OF MARIJUANA DISPENSARIES
DURING A SPECIAL STUDY PERIOD FOR 45 DAYS**

BACKGROUND:

The City Attorney's office has received inquiries regarding enacting a moratorium on medical marijuana dispensaries in the City of Imperial Beach. This request comes after a number of local cities have passed similar moratoria, including Chula Vista, National City, Santee, Escondido, and Oceanside. On the same Agenda is an appeal of a land use determination in anticipation of a business license application for a Marijuana dispensary on the grounds that it is not allowed in the zone requested. Regardless of the result of that hearing, this agenda item addresses the larger issue of how the City addresses potential regulation of marijuana dispensaries as an overall City policy.

This report briefly outlines the legal framework for regulating medical marijuana in California, the conflict between state and federal law, and how the conflict between the state and federal government has left cities in the unfortunate position of making legislative decisions without clearly defined legal authority. The legal status of medical marijuana dispensaries is the subject of intense debate at the current time. This report also discusses how moratoria work, so that if the Council proceeds with a moratorium, it can better understand the process ahead.

DISCUSSION:

In 1996, the voters of the State of California passed Proposition 215, the Compassionate Use Act. Under the initiative, patients and their "primary caregivers" may possess or cultivate marijuana for the patient's medical use if the patient has an oral or written doctor's "recommendation." State law also prohibits doctors from being punished for making a "recommendation" for medicinal use of marijuana.

The initiative applies to people with cancer, AIDS, several other enumerated conditions, and "any other illness" that medicinal marijuana can relieve. People have asserted the right to use marijuana for everything from life-threatening cancer to minor injuries.